BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PARENT ON BEHALF OF STUDENT,

V.

CHOWCHILLA ELEMENTARY SCHOOL DISTRICT.

OAH CASE NUMBER 2026030859

ORDER DENYING MOTION TO COMPEL DOCUMENTS IN ADDITION TO EDUCATIONAL RECORDS PRODUCED

APRIL 27, 2026

On March 13, 2026, Student filed a request for due process hearing naming Chowchilla Elementary School District, called Chowchilla. At the April 17, 2026, prehearing conference, the ALJ permitted Student to file a motion to compel Chowchilla to produce educational records that Student contends Chowchilla refused to produce.

On April 20, 2026, Student filed a motion to compel Chowchilla to produce documents regarding Student's removals from instruction and lost instructional time. Student represented that Chowchilla produced documents in response to his educational records request. However, Student contends that while the produced records confirmed Student had been removed from instruction they did not include

information regarding the duration or total instructional time Student lost from the removals.

On April 22, 2026, Chowchilla filed a response in opposition to the motion to compel supported by a declaration under the penalty of perjury by special education director Patricia Sandoval. Sandoval represented that all documents including those reflecting Student's class attendance and removals from instruction had been produced to Student. Sandoval also represented that Chowchilla did not have any educational records regarding the duration or total instructional time provided to Student beyond the educational records already produced.

In general, there is no right to prehearing discovery in due process proceedings under the Individuals with Disabilities Education Act, called the IDEA. (20 U.S.C. § 1400 et seq.) Rather, the IDEA provides parties with the right to present evidence and compel the attendance of witnesses at "a hearing conducted pursuant to subsection (f) or (k)" of section 1415 of title 20 of the United States Code. (20 U.S.C. § 1415(h).) California provides a similar right to present evidence and compel the attendance of witnesses in due process proceedings (Ed. Code, § 56505, subd. (e)), but does not confer the right to prehearing discovery.

Education Code section 56505, subdivision (a), provides that "[t]he state hearing shall be conducted in accordance with regulations adopted by the board," and under that authority the Department of Education promulgated section 3082, subdivision (c)(2), of title 5 of the California Code of Regulations, which authorizes the issuance of subpoenas and subpoenas duces tecum. These regulations specifically disallow the provisions of the Administrative Procedures Act that provide broader authority for the use of subpoenas in other administrative hearings. (Cal. Code Regs., tit. 5, § 3089 [inapplicability of Gov. Code, §§ 11450.05-11450.30 to due process hearing procedures].)

However, Parents or adult students are entitled to request copies of the educational records, relating to the student in question, that are maintained by the school district. (Ed. Code, § 56504; *Burnett v. San Mateo Foster City School District* (9th Cir. 2018) 739 Fed. Appx. 870, 873.)

Education records under the IDEA, sometimes called pupil records, are defined by the federal Family Educational Rights and Privacy Act, also called FERPA, to include "records, files, documents, and other materials" containing information directly related to a student, other than directory information, which "are maintained by an educational agency or institution or by a person acting for such agency or institution." (20 U.S.C. § 1232g(a)(4)(A); see also Ed. Code, § 49061, subd. (b) [defining pupil records]; 34 C.F.R. § 99.3 [defining education records].)

The United States Supreme Court in *Owasso Ind. School District v. Falvo* (2002) 534 U.S. 426 *(Falvo*) after conducting an analysis of FERPA provisions related to education records, determined that not every record relating to a student satisfies the FERPA definition of education records. Specifically, the Supreme Court examined the FERPA provision that requires educational institutions to "maintain a record, kept with the education records of each student" that "list[s] those who have requested access to a student's education records and their reasons for doing so." (*Falvo*, *supra*, 534 U.S. at p. 434.) The Supreme Court concluded that because this single record must be kept with the education records, "Congress contemplated that education records would be kept in one place with a single record of access." (*Id.*) The Supreme Court further concluded that "[b]y describing a 'school official' and 'his assistants' as the personnel responsible for the custody of the records, FERPA implies that education records are institutional records kept by a single central custodian, such as a registrar…" (*Id.* at pp. 434-435.)

In *BRV, Inc. v. Superior Court* (2006) 143 Cal.App.4th 742, when determining whether an investigative report was an education record, citing *Falvo*, the California Court of Appeal stated that "the statute was directed at institutional records maintained in the normal course of business by a single, central custodian of the school. Typical of such records would be registration forms, class schedules, grade transcripts, discipline reports, and the like." (*Id.* at p. 754.) The Court of Appeal found that the investigative report, "which was not directly related to the private educational interests of the student," was not an education record, because "the report was not something regularly done in the normal course of business," and "was not the type of report regularly maintained in a central location along with education records…in separate files for each student." (*Id.* at p. 755.)

In *S.A. ex rel. L.A. v. Tulare County Office of Education* (E.D.Cal. Sept. 24, 2009, No. CV F 08–1215 LJO GSA) 2009 WL 3126322, aff'd. *S.A. v. Tulare County Office of Education* (E.D.Cal. October 6, 2009, No. CV F 08-1215 LJO GSA.) 2009 WL 3296653, the United States District Court for the Eastern District of California found that documents such as school district emails concerning or personally identifying a student that had not been placed in his permanent file were not educational records as defined under FERPA. Citing *Falvo*, the district court stated Congress contemplated that educational records would be kept in one place with a single record of access to those records. Because the emails student requested had not been placed in his permanent file and were therefore not "maintained" by the school district, the emails were not educational records, and the school district was therefore not required to produce them under a request for student records under the IDEA. (2009 WL 3126322, at p. 7.)

In *Burnett*, parents argued that the school district committed a procedural violation when it only turned over emails concerning the students that had been printed

and added to the student's file. The United States Court of Appeals for the Ninth Circuit affirmed the district court's determination that the school district was not required to turn over emails that were not "maintained" in a physical folder or secure electronic database. (739 Fed. Appx. at p 873.) "The Supreme Court has interpreted the word 'maintained' in FERPA as 'to keep in existence or continuance; preserve; retain' and reasoned that '[t]he word 'maintain' suggests FERPA records will be kept in a filing cabinet in a records room at the school or on a permanent secure database.'" *(Ibid.*, quoting *Falvo*, 534 U.S. 426 at pp. 432-433.)

A public agency is required to comply with a request for school records without unnecessary delay before any meeting regarding any individualized education program or any hearing and in no case more than five business days after the request is made orally or in writing. (Ed. Code, § 56504.) If a school record includes information on more than one pupil, the parents of those pupils have the right to inspect and review only the information relating to their child or to be informed of that specific information. (*Ibid.*)

The parties are also entitled to disclosures of any evidence an opposing party plans to introduce at hearing five business days prior to the date of the first day of hearing. (Ed. Code, 56505, subd. (e)(7).)

STUDENT DID NOT SHOW THAT THE DOCUMENTS SOUGHT WERE EDUCATIONAL RECORDS

Student did not dispute that Chowchilla produced documents to his educational records request. Student argued that the documents Chowchilla produced were incomplete because they did not include information about the duration and total instructional time Student lost from being removed from class. However, Student did not show that the additional documents sought in the motion were educational records.

Education Code section 56504 entitles Student to educational records relating to Student that are maintained by Chowchilla. Student is entitled to a representation from Chowchilla that it has produced all responsive documents pursuant to Student's educational records requests. Chowchilla represented in its response to the motion that it produced all educational records and further documents Student argued were missing in response to his educational records request do not exist. To the extent that Student argues he was entitled to class removals logs or lost instructional time summaries not a part of Student's educational records, neither the IDEA, nor FERPA, endorses that argument and Student has not cited to any supporting legal authority.

Therefore, Student's motion to compel production of documents in addition to the educational records Chowchilla produced is denied.

IT IS SO ORDERED.

Sabrina Kong

Sabrina Kong
Administrative Law Judge
Office of Administrative Hearings